

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDNA WHITLEY,

Plaintiff,

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS et al.,
Defendants.

Case No. 21-11995
Honorable Shalina D. Kumar
Magistrate Judge David R. Grand

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS (ECF NO. 5)
AND TRANSFERRING VENUE TO THE DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN**

Plaintiff Edna Whitley, as personal representative for the estate of Daniel Joseph Whitley, sued Michigan Department of Corrections (MDOC) and individual MDOC employees and contractors who are staff members at the Michigan Reformatory Prison (RMI) in Ionia, Michigan. ECF No. 1. Whitley's complaint alleges that the decedent's death by suicide at RMI resulted from violations of his Fourth, Eighth, and Fourteenth Amendment rights, as well as his rights under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131 *et seq.* Defendants have moved to dismiss Whitley's complaint under either Federal Rule of Civil Procedure 12(b)(3) or 12(b)(6). ECF No. 5. Whitley has responded in opposition to defendants' motion, conceding that transfer to the Western District would serve the interests of

justice if venue is not proper in this Court. ECF No. 15. The Court has reviewed the parties' briefs and finds that a hearing is unnecessary. See E.D. Mich. LR 7.1(f). As explained below, defendants' motion to dismiss will be denied and this matter will be transferred to the District Court for the Western District of Michigan.

Whitley's allegations have no connection to the Eastern District of Michigan. Whitley's complaint alleges that the conduct relevant to the claims occurred at RMI. ECF No. 1. RMI is in Ionia, Michigan, which is located within the Southern Division of the Western District of Michigan. 28 U.S.C. § 102(b). Under 28 U.S.C. § 1391(b), venue is proper in the Western District of Michigan because the events giving rise to the lawsuit occurred in that District. *See Carpenter v. Ponds*, 2022 WL 115705, *2 (W.D. Tenn. April 19, 2022).

If an action is filed in the wrong district, the district where it was filed may dismiss the case, or, in the interest of justice, may transfer the case to the district where venue is proper. 28 U.S.C. § 1406(a). Because this action should have been filed in the Western District of Michigan, the Court will transfer it to that court. Defendants' substantive arguments for dismissal will be for that court to decide.

Accordingly,

Defendants' motion to dismiss (ECF No. 5) is **DENIED** without prejudice.

The Court directs the Clerk of the Court to **TRANSFER** this case to the Southern Division of the Western District of Michigan.

IT IS SO ORDERED.

s/Shalina D. Kumar
SHALINA D. KUMAR
United States District Judge

Dated: May 17, 2022